



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/164463

PRELIMINARY RECITALS

Pursuant to a petition filed March 04, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 25, 2015, at Milwaukee, Wisconsin.

There remains no issue for determination.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On February 7, 2015 the agency received a system update that the petitioner was received \$370 in weekly unemployment benefits. This amounted to a monthly gross income of \$1,480.
3. On February 9, 2015 the agency sent the petitioner notice that effective March 1, 2015 her BadgerCare (BC) Plus benefits would terminate because she was over the income limit.

4. On March 4, 2015 the Division of Hearings and Appeals received the petitioner's request of fair hearing.
5. At the hearing the petitioner testified that she had applied for insurance through the marketplace, but that she had been denied coverage as they believed that she was eligible for health insurance benefits through a state program.
6. After the hearing, the agency followed up to determine whether the petitioner would be eligible for BC Plus benefits under the new gap filling rules. On March 30, 2015 the State of Wisconsin, Department of Health Services, sent the petitioner a notice that her application for BC Plus had been approved as of March 1, 2015. The notice further explains that she will receive that coverage through the end of the calendar year due to a special federal rule that allows for coverage based on her annual taxable income in 2015.

DISCUSSION

BadgerCare (BC) Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, and \$1,310.83 for a household of two persons in 2014. *Id.*, § 50.1.

A person with income greater than 100% of the FPL may receive healthcare coverage through the marketplace. The eligibility rules used by the Marketplace for Advanced Premium Tax Credits and the eligibility rules used when determining income for BC Plus are slightly different. *BCPEH*, § 16.1.4. BC Plus uses modified adjusted gross income, and the marketplace uses the IRS tax rules. *Id.* It is possible for a person to be found both ineligible for Advanced Premium Tax Credits (APTC) through the marketplace, and ineligible for BC Plus. *Id.* The APTCs are the credits that bring down the Marketplace premiums making the insurance affordable for lower income individuals. If this is the case, then the person becomes eligible for BC Plus through the new gap filling policy. *Id.* Once a person becomes eligible for BC Plus under this gap filling policy, the person remains eligible until the end of the calendar year unless the person's income increases to above 100% of the FPL. *Id.*

In this case the petitioner was originally denied both BC Plus coverage and insurance through the marketplace. Following the hearing, the agency determined that the petitioner was eligible for BC Plus through this new gap filling coverage. Thus, there remains no issue for determination.

CONCLUSIONS OF LAW

There remains no issue for determination.

THEREFORE, it is

ORDERED

that the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of April, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 24, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability